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act becomes any the less illegal because done under cover of such a rule. And the fact that the communication to the plaintiff's customers simply notified them of this rule did not in the least veil the underlying threat, as the facts of the case plainly show.

WILLS — CONSTRUCTION — WHETHER ANNUITIES PAYABLE FROM CORPUS. — A testator by his will gave to his sister for life an annuity of \$120 "payable out of" his estate, and in a subsequent clause gave the use of "the residue" of his estate to his wife for life "subject to the payment of the said annuity." After the wife's death the "said residue" of the estate was to go to the sister in fee. The value of the testator's estate was \$16,200. The wife filed a petition asking for a decree construing the will. *Held*, that she may pay the annuity out of the corpus of the estate. *Matter of Van Valkenburgh*, 60 N. Y. Misc. 497 (Surr. Ct.).

It is a general rule that an annuity charged upon an estate in general terms must be paid from the income if the income be sufficient. *Cummings v. Cummings*, 146 Mass. 501. The corpus may be touched only if the testator's intention to that effect clearly appears. *Taylor v. Taylor*, L. R. 17 Eq. 324. Particularly is this so when the situation is that of life tenant and remainderman. *Baker v. Baker*, 6 H. L. Cas 616. And a disposition of the surplus of the income is an indication of an intention that the corpus should be untouched. *Stelfox v. Sugden*, Johns. 234. But if the income is insufficient the corpus may generally be charged unless there appears a clear testamentary intention to the contrary. *Croly v. Weld*, 3 De G. M. & G. 993. But in the principal case it does not appear that the income was insufficient for the payment of the annuity. And there is nothing in the will to indicate an intention that the widow might charge the corpus for its payment. See *Earp's Will*, 1 Pars. Eq. Cas. 453.

WILLS — PROBATE — COLLATERAL ATTACK ON JURISDICTION OF PROBATE COURT. — The plaintiff sued in trespass as executor. The defendant objected that the plaintiff, being a corporation, was not legally competent to act as executor. *Held*, that the probate court must be presumed to have decided upon the plaintiff's fitness, and that its judgment cannot be collaterally attacked in this action. *Union Savings Bank & Trust Co. v. Western Union Telegraph Co.*, 89 N. E. 478 (Ohio). See NOTES, p. 442.

BOOK REVIEWS.

A TREATISE ON THE LAW OF INTERCORPORATE RELATIONS. By Walter Chadwick Noyes. Second Edition. Revised and Enlarged. Boston: Little, Brown and Company. 1909. pp. lx, 852. 8vo.

Since its publication this treatise has become recognized as an authority on the limited number of subjects covered, and widely used. The general merit of the work was amply set forth in a review of the first edition. See 16 HARV. L. REV. 314. The object of this review is to note the additions and revisions in this second edition. The division of the subject into five main heads is not changed. In the first three parts — Consolidation of Corporation, Corporate Sales, and Corporate Leases — the text is practically unchanged. Many late cases involving principles similar to those discussed in the first edition, or additional cases applying the same principles, or cases extending theories already considered, are cited. Several entirely new sections have been written as follows: Authorization of Consolidation of Interstate Railroads not Regulation of Interstate Commerce, Consolidated Corporation Liable upon its Own Obliga-

tions, Effect of Execution of *Ultra Vires* Contract for Exchanges of Property for Stock, Remedies of Dissenting Stockholders in Cases of Exchange of Property for Stock, *Ultra Vires* Sales of Property of Private and Quasi-public Corporations, *Ultra Vires* Sales of Franchises, and Assignment of Leases. The treatment of these topics is uniformly clear and the statement of the conflicting views on the complicated subject of *ultra vires* sales is excellent. The chief addition under the general heading of Corporate Stockholding and Control is a section dealing with collateral trust bonds. Their use as a means of borrowing has developed with the growth of corporate stockholding. The new cases that have arisen are cited and commented upon.

Since the first edition the growth of the law upon combinations, dealt with under the fifth head, has been marked. Even under the principles of the common law there have been many new cases. These have been digested under proper heads. The development has been by far the most important, however, in the law dealing with legislation against combinations. Realizing the importance of this, the author has almost wholly rewritten the last six chapters which deal with this subject. Legislation supplementing the federal anti-trust statute with the construction put upon it by the courts is fully considered. Questions arising in recent cases of just who are engaged in interstate commerce, of the application of the statute to labor organizations, to combinations under patents, under secret processes and concerning market quotations, are taken up in detail. The case of the *Northern Securities Co. v. United States*, 193 U. S. 197, commonly called the merger case, is exhaustively treated. If the author's conclusion is correct that from this case, the case of the *Shawnee Compress Co. v. Anderson*, 28 Sup. Ct. Rep. 572 and others, the law is that every contract in restraint of interstate commerce is illegal under the act, some amendment such as the one suggested by the author that the defendant may avoid its operation by showing affirmatively that the objects and methods are not injurious to the public, is imperatively necessary, if the act is to remain a law. Otherwise we have the alarming possibility of two individuals engaged in interstate commerce, for example, two expressmen who have formed a partnership to do business across state lines, under the ban of the criminal law and liable to imprisonment. See 17 HARV. L. REV. 474. In the last chapters upon state legislation, the author discusses, among other recent cases, the Supreme Court cases upholding the exercise of the police power to prohibit intrastate combinations and collects all the state statutes with the numerous cases applying them. As a means of finding the law as it is today upon these subjects, this new edition will surely meet with favor.

R. T. H.

THE LAW AND CUSTOM OF THE CONSTITUTION. By Sir William R. Anson. In three volumes. Vol. II. The Crown, Part II. Third Edition. Oxford: At the Clarendon Press. 1908. pp. xxiv, 347. 8vo.

Sir William Anson has done wisely in following the unusual practice of publishing new editions of his work piecemeal, instead of delaying until he could revise the whole of it at once, for by this means we are able to get a part of it brought up to date without having to wait until a man so busy as he is has time to complete the rest. The book now published is a revision of the second half of his previous volume, entitled "The Crown," and it covers local and colonial government, foreign relations, revenues and expenditures, the army and navy, the church, and the courts of law.

General comment on a work so well known as Sir William Anson's is unnecessary. Every student of English public life realizes that this is the most convenient and comprehensive book of reference, or textbook, on the laws and framework of the government. In a note to the new edition (49, Note 2), the author criticizes Dr. Redlich's book on English Local Government on the